

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: SCHAEFER, et al

Application No.: 09/741,008

Group:

Filed: December 21, 2000

Examiner:

Title: PERFORMANCE PATH METHOD AND APPARATUS
FOR EXCHANGING DATA AMONG SYSTEMS
USING DIFFERENT DATA FORMATS

PETITION FOR RETROACTIVE LICENSE

The Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

Petition is hereby made for a retroactive foreign filing license under 37 C.F.R. 5.25 for the present application.

- 1) Material in the present U.S. Patent Application was filed only in Canada.
- 2) Material of the present application was filed in Canada on December 29, 2000, and is not yet published.
- 3) The required verified statement (Oath or Declaration) is enclosed.
- 4) The required fee of Rule 1.17 (h) of \$130 is enclosed.

As further demonstration that the foreign filing was in error and without deceptive intent, note that this Petition itself brings the matter to the Commissioner's attention.

Note that the present application claims the priority of U.S. Provisional Application 60/176,625, filed January 19, 2000, of the same title, by the same inventors, for basically the same invention and Application 09/741,008 includes the material of Provisional Application 60/176,625. A foreign filing license for the Provisional Application 60/176,625 was issued on February 17, 2000, well before the Canada filing, and hence covers much of the material as the present application 09/741,008. No secrecy order is now or has ever been in effect for Provisional Application 60/176,625, or the present Application 09/741,008. A copy of U.S. Provisional Application 60/176,625 and its foreign filing license is attached hereto.

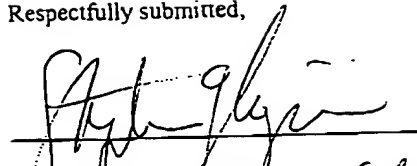
Also, note that the subject matter of the present application relates to sales of automobiles by automobile dealers, and hence would not fall under the secrecy provisions for national security of 35 U.S.C.181. See for example, Claim 3, and the first paragraph of the Detailed Description of the Drawings, beginning on page 6 of the application.

However, out of an abundance of caution, this Petition is filed.

The Commissioner is hereby authorized to charge any additional fees that may be required herefore, and any missing or insufficient fee filed, or asserted to be filed, which should have been filed herewith or concerning any paper filed hereafter, and which may be required now or hereafter relative to this application and the resulting official document, or credit any overpayment, to our Deposit Account 03-3975, Order No. 81684/272835, for which purpose a duplicate copy of this sheet is attached.

Having satisfied all the requirements for retroactive foreign filing license, such license is hereby respectfully requested.

Respectfully submitted,



STEPHEN C. GLAZIER
Reg. No. 31,351
(202) 861-3056

01 Feb 01

Date: _____

Pillsbury Winthrop LLP
1100 New York Avenue, N.W.
Ninth Floor, East Tower
Washington, DC 20005
(202) 861-3000
Fax: (202) 822-0944

Attachments:

- 1) Provisional Application 60/176,625
- 2) Foreign Filing License for Provisional Application 60/176,625

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: SCHAEFER, et al

Application No.: 09/741,008

Group:

Filed: December 21, 2000

Examiner:

Title: PERFORMANCE PATH METHOD AND APPARATUS
FOR EXCHANGING DATA AMONG SYSTEMS
USING DIFFERENT DATA FORMATS

VERIFIED STATEMENT PURSUANT TO 37 C.F.R. 5.25

The Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

This statement is filed in support of the attached Petition for Retroactive License.

The undersigned is the attorney of record for the present application.

The subject matter of the present patent application was not under a secrecy order at the time that it was filed abroad, in Canada only, that is December 29, 2000, and it is not currently under a secrecy order.

This retroactive foreign filing is diligently sought after discovery that the Canada application was filed before a foreign filing license was received for 09/725,080 (although a timely foreign filing license for the Provisional Application 60/176,625 had been received, for which priority is claimed). In late January 2001, we reviewed the foreign application file and the domestic application file in a routine check of the status of the matter. At this point, it was first discovered that a foreign filing license for 09/725,080 had not yet been received. The drafting of the attached Petition was initiated and filed shortly thereafter. We also note that the time of

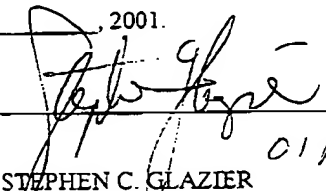
filing of this Petition is only about one month from the foreign filing, and well before any foreign publication, and hence is inherently very diligent.

The Canada application was filed in error without deceptive intent. This filing error was due to a clerical error. Routinely, the international filing formalities department of this law firm checks all proposed foreign applications for all formal requirements, including that a foreign filing license has been obtained prior to foreign filing, and delays any foreign applications for which a license has yet to be received, until the license is received. In this case, the proposed Canada filing was received by the undersigned from the international department of this law firm, for transmittal to Canada, with no indication that the foreign filing license had not been received. The undersigned then caused the file to be transmitted to Canada, prior to discovery that the foreign filing license had not been received, believing that this was proper, and this was done without deceptive intent.

The facts above are within my personal knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this ____ day of _____, 2001.


STEPHEN C. GLAZIER
Reg. No.: 31,361
(202) 861-3056

Pillsbury Winthrop LLP
1100 New York Avenue, N.W.
Ninth Floor, East Tower
Washington, DC 20005
(202) 861-3000
Fax: (202) 822-0944

PTO-103P
Rev. 6-99)PROVISIONAL APPLICATION
FILING RECEIPT

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

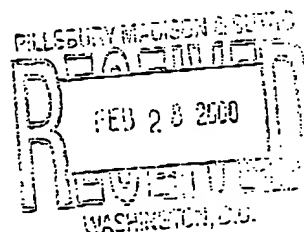
APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FILE FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
60/176,625	01/19/00		\$150.00	PMS258033	4		

STEPHEN C. GLAZIER
PILLSBURY MADISON & SUTRO LLP
1100 NEW YORK AVENUE, N. W.
NINTH FLOOR, EAST TOWER
WASHINGTON DC 20005

Receipt is acknowledged of this Provisional Application. This Provisional Application will not be examined for patentability. Be sure to provide the PROVISIONAL APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Provisional Application Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts of Application" ("Missing Parts Notice") in this application, please submit any corrections to this Filing Receipt with your reply to the "Missing Parts Notice." When the PTO processes the reply to the "Missing Parts Notice," the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate). This Provisional Application will automatically be abandoned twelve (12) months after its filing date and will not be subject to revival to restore it to pending status beyond a date which is after twelve (12) months from its filing date.

Applicant(s) ROBERT G. SCHAEFER, DAYTON, OH; HARSH WARDHAM, DAYTON, OH.

→ IF REQUIRED, FOREIGN FILING LICENSE GRANTED 02/17/00
TITLE
PERFORMANCE PATH METHOD AND APPARATUS FOR EXCHANGING DATA AMONG
SYSTEMS USING DIFFERENT DATA FORMATS



DATA ENTRY BY: GREEN, TERESA

TEAM: 08 DATE: 02/17/00

 PILLBURY MADISON & SUTRO
 1100 NEW YORK AVENUE, N.W.
 NINTH FLOOR, EAST TOWER
 WASHINGTON, DC 20005
 TEL: (202) 692-6000 FAX: (202) 692-6001
 WWW.PMSLAW.COM

(See reverse for new important information)

LICENSE FOR FOREIGN FILING
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "FOREIGN FILING LICENSE GRANTED" followed by a date appears on the reverse side of this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.11. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related application(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR Parts 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "FOREIGN FILING LICENSE GRANTED" DOES NOT appear on the reverse side of this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

PLEASE NOTE ---- The Following Information about the Filing Receipt:

The articles such as "a," "an" and "the" are not included as the first words in the title of an application. They are considered to be unnecessary to the understanding of the title.

The words "new," "improved," "improvement," "improvements in or relating to" are not included as the first words in the title of an application because a patent application is, by nature, a new idea or improvement.

The title may be truncated if it consists of more than 4 lines of 70 characters each (letters and spaces combined).

The inventor information may be truncated if the family name consists of more than 25 characters (letters and spaces combined) and if the given name consists of more than 25 characters (letters and spaces combined). The inventor's residence allows for up to 40 characters (letters and spaces combined).

The docket number allows a maximum of 12 characters.

If your application was submitted under 37 CFR 1.1(b), your filing date should be the "date in" found on the Express Mail label. If there is a discrepancy, you should submit a request for a corrected Filing Receipt along with a copy of the Express Mail label showing the "date in."

Customer Address may have been modified to conform to U.S. Postal rules.

Please direct correction, including a copy of your Filing Receipt, to:
Assistant Commissioner for Patents
Office of Initial Patent Examination
Customer Service Center
Washington, DC 20231

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
REQUEST FOR FILING PROVISIONAL PATENT APPLICATION

Under 35 USC 111(b)

(Not for DESIGN cases)

Box:
PROVISIONAL
APPLICATION

Asst. Commissioner of Patents
 Washington, D.C. 20231

PROVISIONAL APPLICATION
 Under Rule 53(c)

Sir:

Herewith is a PROVISIONAL APPLICATION

Title: PERFORMANCE PATH METHOD AND APPARATUS
 FOR EXCHANGING DATA AMONG SYSTEMS USING
 DIFFERENT DATA FORMATS

Atty. Dkt. PMS 258033

M#

Client Ref

Date: January 19, 2000

including:

1. Specification: 15 pages 2. ☐ Specification in non-English language 3. ☒ Drawings: 4 sheet(s)
 4. The invention ☐ was ☒ was not made by, or under a contract with, an agency of the U.S. Government.

If yes, Government agency/contact # = _____

5. ☐ Attached is an assignment and cover sheet. Please return the recorded assignment to the undersigned.
 6. ☐ Attached: _____ (No.) Verified Statement(s) establishing "small entity" status under Rules 9 & 27.
NOTE: Do NOT File IDS!
 7. ☐ Attached:

8. This application is made by the following named inventor(s) (Double check instructions for accuracy.):

(1) Inventor	Robert	G.	Schaefer
	First	Middle Initial	Family Name
Residence	Dayton	Ohio	U.S.
	City	State/Foreign Country	Country of Citizenship

(2) Inventor	Harsh		Wardham
	First	Middle Initial	Family Name
Residence	Dayton	Ohio	U.S.
	City	State/Foreign Country	Country of Citizenship

(3) Inventor			
	First	Middle Initial	Family Name
Residence			
	City	State/Foreign Country	Country of Citizenship

(4) Inventor			
	First	Middle Initial	Family Name
Residence			
	City	State/Foreign Country	Country of Citizenship

(5) Inventor			
	First	Middle Initial	Family Name
Residence			
	City	State/Foreign Country	Country of Citizenship

9. NOTE: FOR ADDITIONAL INVENTORS, check box ☐ and attach sheet (PAT102A) with same information regarding additional inventors.

	Large/Small Entity		Fee Code
10. Filing Fee	\$150/\$75	+150	114/214
11. If "non-English" box 2 is X'd, add Rule 17(k) processing fee	\$130	+0	135
12. If "assignment" box 5 is X'd, add recording fee	\$40	+0	581
13. TOTAL FEE ENCLOSED =	\$150		

Our Deposit Account No. 03-3975

Our Order No. 81684 | 258033
C# | M#

CHARGE STATEMENT: The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-17 (missing or insufficient fee only) now or hereafter relative to this application or credit any overpayment to our Account/Order Nos. shown in the heading hereof for which purpose a duplicate copy of this sheet is attached.

1100 New York Avenue, NW
Ninth Floor
Washington, DC 20005-3918
Tel: (202) 861-3000
Atty/Sec: SCG/HM:lap

Pillsbury Madison & Sutro LLP
Intellectual Property Group

By Atty: Stephen C. Glazier

Sig: 

Reg. No. 31361

Fax: (202) 822-0944

Tel: (202) 861-3056

NOTE: File in duplicate with 2 post card receipts (PAT-103) & attachments